

Special Rules and Options for Regulating the Amending Process

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A special rule is a House resolution intended to regulate floor consideration of a specific legislative measure named in the resolution. When adopted by the House, the requirements prescribed by a special rule can supersede the standing rules of the House (as well as rulemaking provisions in statutes such as the Congressional Budget Act), but only in application to the measure named. Special rules serve two key functions: (1) to enable the House to consider a specified measure, and (2) to establish specific terms for considering it, including any modifications of the amending process. This report identifies the most common kinds of modifications recommended by the Rules Committee in terms used by the committee. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

Open Rules

When a special rule states that a measure is to be considered for amendment under the five-minute rule, but includes no further provision to modify the amending process, it is defined by the House Rules Committee as an open rule. Under this circumstance Members may offer any amendments that comply with the standing rules of the House.

Modified Open Rules

Often special rules allow any Member to offer germane amendments under the five-minute rule subject only to an overall time limit on the amendment process, or a requirement that amendments be pre-printed in the *Congressional Record*. These rules place no limitations on the substance of amendments and are designated by the Rules Committee as a modified open rule.

Closed Rules

When a special rule allows no amendments to be offered during consideration of a measure other than those recommended by the committee reporting the bill, it is defined by the Rules Committee as a closed rule. The Rules Committee defines a special rule as closed even when a motion to recommit with amendatory instructions is allowed because House Rule XIII, clause 6(c)(2) prohibits the committee from reporting a special rule that “would prevent the motion to recommit a bill or resolution from being made as provided in clause 2(b) of Rule XIX, including a motion to recommit with instructions to report back an amendment otherwise in order, if offered by the Minority Leader or a designee.”

Modified Closed/Structured Rules

In modern practice, special rules frequently place restrictions on the amending process that are less stringent than those of a closed rule. Such rules may limit the amendments that are in order to those that are specified in the special rule or the report accompanying the rule. Typically, the Rules Committee will notify Members by a Dear Colleague letter and an announcement on the floor of the intention to report such a rule and will allow Members to file their proposed amendments with the committee.

Other modified closed/structured rules may preclude the offering of amendments to one or more sections of a measure.

Other Modifications of the Amending Process

There are also other ways in which a special rule may modify the amending process, either separately or in combination with one of the categories described above. For example, the amending process normally does not allow for amendments that would reamend text that has already been amended. However, special rules occasionally provide that an amendment be in order “notwithstanding the adoption” of a previous amendment. This variant is described in CRS Report RS20313, *Queen-of-the-Hill Rules in the House of Representatives*.

Measures are normally read for amendment by section (or by paragraph in the case of appropriations bills). Special rules may modify this practice by making it in order to read a bill for amendment by title or to be open for amendment at any point.

Special rules may modify the length of time that an amendment may be debated. The application of the five-minute rule may not be suitable in some instances, particularly when the House debates major alternatives. In such a case, a special rule may provide for a specified, extended period of debate for an amendment, usually equally divided and controlled by proponents and opponents of the amendment.

Special rules may also protect all or specified amendments from points of order by providing waivers of one or more House rules, such as the germaneness requirement in Rule XVI, clause 7. This variant is described in CRS Report 98-433, *Special Rules and Waivers of House Rules*.

The House may also adopt a rule that simultaneously agrees to dispose of a separate matter, such as an amendment, which is specified in the rule itself. This variant is described in CRS Report 98-710, *“Self-Executing” Rules Reported by the House Committee on Rules*.

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